APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,174	09/30/2003	Paul Anthony Rhea	60046.0024US01	5913

7590 09/27/2006	EXAMINER	
LEONARD J. HOPE	BONURA, TIMOTHY M	
THE HOPE LAW FIRM	ART UNIT	PAPER NUMBER
P.O. BOX 2825		
ATLANTA, GA 30301	2114	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/675,174	RHEA ET AL.
	Examiner	Art Unit	
	Tim Bonura	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 September 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 September 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>7/11/05 & 9/18/06</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

- **Claims 1-5, 7-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Keys, et al, 6,516,427.**

- **Claims 6 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-5, 7-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Keys, et al, 6,516,427.

3.   Regarding claim 1:

a.   Regarding the limitation of "utilizing server-side entry points in providing diagnostics on-demand," Keys disclose a system that can issue a request of diagnostic assistance upon detection of a failure. (Lines 30-36 of Column 4).

b.   Regarding the limitation of "receiving a request to perform a diagnostic on a client computer," Keys disclose a system receives the request (see step 58 in figure 2b) at the interactive diagnostic procedure. (Lines 41-45 of Column 4).

c.   Regarding the limitation of "in response to the request, calling an entry point provided at a server computer for performing functions related to executing a diagnostic,

the called entry point operative to provide a configuration file identifying one or more

additional entry points at the server computer," Keys disclose a system in which a JBM

diagnostic subroutine is dispatched and executed. The subroutine diagnostic routine is

a JVM implemented routine that relies upon the systems Java language to run. (Lines

61-67 of Column 4, and Lines 1-5 and 19-21 of Column 5).

d.   Regarding the limitation of "calling a one of the entry points identified in the

configuration file to obtain authorization to download a diagnostics module for testing a

single hardware component of the client computer," Keys disclose a system in which the

HTTP client service can be requested to send more sub-diagnostic routines upon

completion of the interactive diagnostic procedure. (Lines 1-15 of Column 5).

e.   Regarding the limitation of "in response to receiving the authorization to

download the diagnostics module, calling a one of the entry points identified in the

configuration file to download the diagnostics module; installing the diagnostics module

once it has been downloaded," Keys disclose a system a JVM implementable diagnostic

device that can be downloaded and run on a computer system. (Lines 15-20 of Column

5).

4.   Regarding claim 2, Keyes discloses a system in which the interactive diagnostic

procedure responds to a request by dispatching a message to the JVM to run a diagnostic

subroutine and executing the subroutine. (Lines 41-46 of Column 4).

5.   Regarding claim 3, Keyes discloses a system wherein the diagnostic procedure either

cause a download of another diagnostic subroutine or outputs a message indicating the problem

upon completion of its routine. (Lines 5-15 of Column 5).

6.   Regarding claim 4, Keyes discloses a system wherein the diagnostic procedure either cause a download of another diagnostic subroutine or outputs a message indicating the problem upon completion of its routine. (Lines 5-15 of Column 5).

7.   Regarding claim 5, Keyes discloses a system wherein the JVM is able to install the diagnostic routine on any computer because of the platform independence of the JAVA language. Thereby, the JAVA language provides the means for installing the subroutine for diagnostic. (Lines 15-22 of Column 5).

8.   Regarding claim 7, Keyes discloses a system that is a computer-implemented device. (Lines 8-18 of Column 4).

9.   Regarding claim 8, Keys disclose a system receives the request (see step 58 in figure 2b) at the interactive diagnostic procedure. (Lines 41-45 of Column 4). Keys disclose a system a JVM implementable diagnostic device that can be downloaded and run on a computer system. (Lines 15-20 of Column 5).

10.   Regarding claim 9, Keyes discloses a system wherein the JVM is able to install the diagnostic routine on any computer because of the platform independence of the JAVA language. Thereby, the JAVA language provides the means for installing the subroutine for diagnostic. (Lines 15-22 of Column 5).

11.   Regarding claim 10, Keyes disclose a system a JVM implementable diagnostic device that can be downloaded and run on a computer system. (Lines 15-20 of Column 5).

12.   Regarding claim 11, Keyes discloses a system with HTTP connections for transmitting the data. It is inherent that HTTP messages have network addresses.

13.   Regarding claim 12, Keyes discloses a system in which a HTTP message is sent to an RDD (which is a network computer device) to send a diagnostic routine. (Lines 8-18 and 41-48 of Column 4).

14.   Regarding claim 13, Keyes discloses a system wherein the diagnostic procedure either cause a download of another diagnostic subroutine or outputs a message indicating the problem upon completion of its routine. (Lines 5-15 of Column 5).

15.   Regarding claim 14, Keyes discloses a system wherein the diagnostic procedure either cause a download of another diagnostic subroutine or outputs a message indicating the problem upon completion of its routine. (Lines 5-15 of Column 5).

16.   Regarding claim 15:

     f.   Regarding the limitation of "providing an entry point at a server computer for retrieving a configure file identifying one or more additional entry points at the server computer for use in providing diagnostic on-demand," Keys disclose a system in which a JBM diagnostic subroutine is dispatched and executed. The subroutine diagnostic routine is a JVM implemented routine that relies upon the systems Java language to run. (Lines 61-67 of Column 4, and Lines 1-5 and 19-21 of Column 5).

     g.   Regarding the limitation of "receiving a request at the entry point for providing the configuration file and returning the configuration file in response to the request" Keys disclose a system a JVM implementable diagnostic device that can be downloaded and run on a computer system. (Lines 15-20 of Column 5).

17.   Regarding claim 16, Keyes discloses a system in which the interactive diagnostic procedure responds to a request by dispatching a message to the JVM to run a diagnostic subroutine and executing the subroutine. (Lines 41-46 of Column 4).

18.   Regarding claim 17, Keyes discloses a system wherein the diagnostic procedure either cause a download of another diagnostic subroutine or outputs a message indicating the problem upon completion of its routine. (Lines 5-15 of Column 5).

19.   Regarding claim 18, Keyes discloses a system wherein the JVM is able to install the

diagnostic routine on any computer because of the platform independence of the JAVA

language. Thereby, the JAVA language provides the means for installing the subroutine for

diagnostic. (Lines 15-22 of Column 5).

20.   Regarding claim 20, Keyes discloses a system that is a computer-implemented device.

(Lines 8-18 of Column 4).

Claim Rejections - 35 USC § 101

21.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

22.   Claims 6 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

23.   Regarding claims 6 and 19, the claims recite a "computer-readable medium" which

(according to the spec. on page 6) can embody a non-statutory subject matter of transmission

medium. (The examiner notes a simply amendment to the defined computer storage media, as

defined on page 6, will over come this rejection).

Conclusion

24.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to **Tim Bonura.**

> o   The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.

> o   The examiner can be reached at: **571-272-3654**.

25.   If attempts to reach the examiner by telephone are unsuccessful, please contact the

examiner's supervisor, **Scott Baderman.**

      o   The supervisor can be reached on **571-272-3644.**

26.   The fax phone numbers for the organization where this application or proceeding is assigned are:

      o   **703-872-9306 for all patent related correspondence by FAX.**

27.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov/. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

28.   Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100.**

29.   Responses should be mailed to:

      o   **Commissioner of Patents and Trademarks**

      P.O. Box 1450

      Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114

September 22, 2006